

FY 2016 HISTORIC PRESERVATION FUND GRANTS MANUAL



Education, Planning, Survey and National Register Projects

ADMINISTERED BY

Maine Historic Preservation Commission
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2016 HPF Grant Program Schedule

May 30, 2016	Draft Applications due (optional)
June 23, 2016	Final applications due (postmark)
July 22, 2016	Review of projects by Commission
August 2016	Contracts awarded; work begins
October 15, 2016	First Interim Report due
January 15, 2017	Second Interim Report due
April 15, 2017	Third Interim Report due
July 15, 2017	Fourth Interim Report due, if needed
September 30, 2017	All projects completed; all billing completed; all final projects received by MHPC; all final reports received by MHPC.

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1884 perspective drawing by the architect:
<http://lcweb2.loc.gov/service/pnp/habshaer/me/me0000/me0029/photos/087832pv.jpg>*

INTRODUCTION

The Maine Historic Preservation Commission is the State agency responsible for the administration of the National Historic Preservation Act of 1966. This Act authorizes the National Park Service to grant funds from the Historic Preservation Fund (HPF) to States for historic preservation. In turn, the State agency may subgrant funds to eligible recipients in order for other agencies or institutions to conduct allowable activities on its behalf.

The purpose of this manual is to familiarize applicants with the policies and requirements of the HPF program, and to explain the application procedures for education, planning, survey, or National Register grant projects.¹ Grant recipients are required to be in compliance with Federal and State laws and regulations governing administration.

¹ Archaeology, pre-development and development projects are covered by a separate manual and application.

Chapter 1. DEFINITIONS

Commission. "Commission" shall mean the Maine Historic Preservation Commission.

Director. "Director" shall mean the Director of the Maine Historic Preservation Commission.

Governmental Agencies. "Governmental agencies" shall mean agencies of State government, counties and other political subdivisions of the state.

Historic Preservation Fund (HPF). "Historic Preservation Fund (HPF)" shall mean the source from which monies are appropriated to fund the program of matching grants-in-aid to the States (and other authorized grant recipients) for carrying out the Purpose of the National Historic Preservation Act of 1966, as authorized by Section 108 of the Act.

Historic Property(ies). "Historic Property(ies)" shall mean any prehistoric or historic district, site, building, structure or object included in, or eligible for inclusion in the National Register of Historic Places, including artifacts, records, and material remains related to such a property or resource.

National Register of Historic Places. The National Register of Historic Places is the official list of the Nation's cultural resources worthy of preservation. Authorized under the National Historic Preservation Act of 1966, the National Register is part of a national program to coordinate and support public and private efforts to identify, evaluate, and protect out historic and archeological resources. The Register is administered by the National Park Service under the Secretary of the Interior.

Non-profit Organizations. "Non-profit organizations" shall mean organizations granted tax-exempt status by the Internal Revenue Service.

Register. "Register" shall mean the National Register of Historic Places.

Secretary of the Interior's Standards. This refers to both The Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, 1983, 48 CFR 44716 and the specific standards and guidelines for Preservation Planning, Identification, Evaluation, Registration, and Documentation (historical, architectural and engineering, archaeological) that it encompasses.

Chapter 2. SHPO FUNDING PRIORITIES

Education

1. Hold workshops, lectures, and regional meetings related to preservation training, planning, or education.
2. Develop traditional, digital, or social media outreach resources targeted to local communities about local or regional preservation activities.
3. Develop educational lesson plans or resources for elementary, junior and high schools that connect local historic buildings and places to broader patterns of history.

Planning

1. Work with agencies, municipalities, community groups and preservation partners to identify and document resources that are threatened by climate change.
2. Develop guidance to help municipalities plan for the effects of climate change on historic properties.
3. Conduct surveys to identify and protect historic resources threatened by climate change

Expand the Maine Historic Resources Inventory and make it more accessible.

1. Survey resources associated with under-represented themes in Maine history and prehistory.
2. Survey resources in geographic and demographic areas currently under-represented.
3. Revise old National Register nominations or create new nominations for resources associated with under-represented themes in Maine history and pre-history or for underrepresented geographic or demographic areas.
4. Enter previously surveyed above ground resources into the CARMA system (web based access).

Special consideration may be given to projects reflecting the 2020 Maine Bicentennial.

Chapter 3. ELIGIBLE APPLICANTS

Eligible applicants are limited to state agencies, county governments, municipal governments, educational institutions, and private non-profit institutions as defined by the Internal Revenue Service.

Chapter 4. ELIGIBLE PROJECTS:

A. Public Education

Public Education projects include, but are not limited to: 1) activities to increase overall public awareness of technical preservation methods and techniques having application to historic properties; 2) dissemination of information to promote working relationships with the public and private sectors to achieve HPF objectives; and 3) explanation of historic preservation planning and/or the goals of the State Plan to State and local governments and to public or private audiences throughout the State; and 4) dissemination of the results of grant-funded work, including explanation of accomplishments, problems, and issues directly related to grant-assisted activities to the State preservation constituency. (Examples: window restoration workshop; brochures or publication explaining local historic districts; creation of a website highlighting local historic properties or advancing preservation planning.)

B. Planning

Planning projects include the development of, or providing support for the development of, planning studies and historic contexts, as well as ordinances, regulations, and guidelines that support local planning goals. (Examples: development of ordinances, regulations, design guidelines, etc. that support local planning goals; planning studies and historic context studies.)

C. Survey

Survey projects directly pertinent to the location, identification, documentation, and evaluation of historic resources. (Reconnaissance or intensive architectural survey.)

D. National Register

National Register projects are those that lead to the preparation or revision of nominations to the National Register of Historic Places.

Chapter 5. SELECTION PROCESS

The Commission annually seeks to undertake a range of project types through applications that variously address above-ground buildings, structures, and objects, or any combination thereof.

Incomplete applications that have been received by the Commission prior to the application submission deadline may be corrected and re-submitted if time permits before the deadline. Once the applications have been received by the administrative staff, they are passed on to the relevant program specialists for review scoring. Applications for projects which are cross-disciplinary are rated jointly by appropriate program specialists.

After all applications have been scored they are ranked by a grants selection committee comprised of Commission staff and three members of the Commission. The committee also makes recommendations for grant awards.

The final selections of grant awards are reviewed by the entire Commission at a quarterly Review Board Meeting and they then vote whether or not to accept the recommendations and award the grant.

Chapter 6. SELECTION CRITERIA

Applications will be reviewed by the Commission and ranked for funding in accordance with the following criteria which apply to all public education, survey, planning and National Register projects:

1. Focus and Products.

The project focus should identify the target audience and the project product should be clearly identified such as: "training workshop" or "publication." 1-15 points will be awarded based on 1. how well defined and thought out the project is and 2. how closely it reflects SHPO funding priorities.

2. Public Benefit.

Applicants should include a statement about the nature and extent of the public benefit that a grant would make possible. 1-5 points.

3. Continuing Project.

The Commission will sometimes award partial funding for a project, if a scaled-down focus or products will lead to useful results, or if a project lends itself to a phased, multi-year approach. Some projects might be phased due to the applicant's or the Commission's fiscal constraints, availability of personnel, or other legitimate reasons. Subsequent phases will score additional points, since the Commission's goal is to see projects to their successful conclusion. 0-1 point.

4. Methodology.

Applicants will outline the project methodology that will be used to address the project focus and result in the products outlined above. Points will be awarded based on 1. how fully the methodology has been developed, and 2. the extent to which the Secretary of the Interior's Standards have been identified and will be met. Reference should be made to the appropriate Standards (Planning, Identification, Evaluation, Registration) as set forth in The Secretary of the Interior's Standards for Archaeology and Historic Preservation. 1-5 points

5. Ability of Applicant to Complete Project.

The ability of the applicant to complete the project by the contract deadline will be determined by the availability of adequate and allowable match for the grant request and by a proposed schedule of work. 0-2 points.

6. Administrative Capability.

Applications are rated on the basis of the applicant's record of past accountability in administering Commission and/or other State or Federal grants. Applicants with no such record will be assumed to have administrative

capability. 0-1 point.

The geographic distribution of applications may be considered. No points.

Chapter 7. ADDITIONAL PROGRAM REQUIREMENTS

A. Procurement Actions

Procurement of goods and services must be conducted in a manner that provides for maximum open and free competition in compliance with program requirements, including OMB Circular A-102 (43 CFR 12). Under State of Maine law, procurements of goods and services exceeding a \$5,000.00 unit price are subject to the solicitation of bids from at least three different sources. For procurements with a lower unit price, small purchase procedures apply. However, in all cases procurements are subject to Commission approval before they are made.

B. Project Period

Project costs must be incurred between the date by which the contract is executed (signed, dated, and notarized by both the Commission and the grant recipient) and the project end-date as stipulated by the contract. Costs incurred prior to the execution of the project contract or following the end-date are not allowable project costs and will not be used as part of the HPF/State matching share.

C. Project Scope

The scope of the project work is stipulated in the contract. Prior to implementing any change, the grant recipient must notify the Commission in writing when such changes to the scope of work are necessary. Some changes may be minor in nature and will be allowable by written permission of the Commission; most changes will require a contract amendment. In some cases Federal approval of scope changes will be required, and obtaining this approval will cause delays. So that funding is not jeopardized, the grant recipient shall notify the Commission of requested changes immediately.

D. Project Budget

The grant recipient must notify the Commission in writing of any major changes in the budget prior to implementing the change. As a guideline, any increase or decrease of a budget item by more than five percent is a major change. Grant recipients are requested to notify the Commission of under-expenditure of the HPF/State share at the earliest possible date, so that if possible the Commission can re-allocate the excess funds to another activity.

E. Interim Reporting

As stipulated in the project contract, interim reports are required of all HPF projects, even if no work has been done or costs incurred by the interim report due date. The schedule of due dates for Interim Reports may be found in the project contract under the Scope of Work. Interim reporting forms will be provided to grant recipients for their use.

F. Project Extensions

If the grant recipient believes that the contract end-date cannot be met, a written request for an extension must be submitted to the Commission prior to the contract end-date, stating the reason that the extension is necessary. Approval of an extension will be dependent upon Federal or State deadlines and other considerations and is not automatic. Grant recipients must notify the Commission as soon as they become aware that a contract extension may be necessary. When approved, contract end-dates are extended through written authorization of the Commission.

G. Method of Payment

All grant funds are paid on a reimbursement basis only. Documentation of all expenditures (HPF, State, and local matching share) must be submitted to and audited by the Commission. Separate reports must be filed for costs within each Federal or State fiscal year. All expenses must be documented with copies of bills and photocopies of both sides of canceled checks. All matching share must also be documented. Time sheets signed by the employee or volunteer and supervisor are required for volunteer and in-kind services, showing the Commission pre-approved rate and total dollar value of the donated or in-kind time. The dollar value of donated equipment and donated space must also be documented for approval as match. Reimbursement may be made in installments, although a percentage will be withheld for final payment pending approval of the project products by the Commission.

For development projects a final project report is required in addition to any technical report which may be a grant product before final reimbursement. The product and reporting requirements are specified in the attachments to the project contract. **IT IS ESSENTIAL THAT GRANT RECIPIENTS READ THE CONTRACT ATTACHMENTS WITH CARE.**

H. Religious Properties

Religious institutions may participate in the HPF grant fund program consistent with the National Historic Preservation Act Section 101(e)(4)(16 U.S.C. §470a(e)(4)), which authorizes certain grants for religious properties listed in the

National Register of Historic Places. Religious properties listed in the National Register are eligible to participate in this grant assistance program because the federal government has a strong interest in preserving all sites of historic significance regardless of their religious or secular character; because eligibility for this program extends to a broad class of beneficiaries defined without reference to religion; and because the criteria for funding must be applied neutrally. These elements show that this grant program is aimed solely at preserving historic structures and does not constitute an endorsement of religion by the government.

I. Federal and State Laws and Regulations

Historic Preservation Fund program funds are subject to the provisions of the National Historic Preservation Act of 1966, as well as other Federal, State and local laws and regulations. See the sample HPF contract in Appendix A for more information.

J. Acquisition Requirements

1. Property Title. Acquisition projects must acquire title to the property; either full fee-simple title or a less-than-fee title interest. Such lesser interests include, but are not limited to, easements, rights-of-way, and leaseholds. In providing HPF assistance for such acquisitions, the State must assume responsibility for meeting the same covenant and public access requirements as with fee-simple acquisition.
2. Uniform Relocation Assistance and Real Property Acquisition Policies. Acquisition projects must be accomplished in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987 (42 U.S.C. 4601 et seq.). Subgrantees must adopt and implement procedures for the acquisition of real property that are fair and consistent, and that provide that the property owner promptly obtains the full measure of compensation authorized by law with a minimum of inconvenience. (See Chapter 20.)
3. Waiver of Right to Just Compensation. If real property is acquired at less than the estimate of fair market value determined by a certified independent professional appraiser(s), there must be documentation that the owner was first provided with a written offer to purchase for the full amount established as just compensation (equal to the approved appraisal of the fair market value).

The grantee must submit in the project application a signed statement by the owner waiving the Right to Just Compensation and indicating that he or she:

- a) Has been informed of all of his or her rights and benefits under the Uniform Relocation Assistance and Real Properties Acquisition Policies Act;
 - b) Has been provided with a statement of just compensation and a written offer to purchase for the amount appraised as full market value (the amount should be shown in the owner's statement);
 - c) Is satisfied with the price to be paid even though it is less than the appraisal of fair market value; and
 - d) The reasons why he or she has elected to accept the lesser amount. (When a partial donation of property (less than appraised fair market value) is to be applied as matching share for an acquisition project, the seller-owner's signed waiver of just compensation and statement of intention to donate the remainder value for historic preservation purposes must be specified.)
4. Independent Relationship. There must be an independent relationship between the seller and the buyer so that unjust enrichment and/or the appearance of unjust enrichment is avoided. For example, a sale of property between relatives or business partners is not eligible for HPF grant assistance.
5. Appraisals must be performed prior to (but no more than 6 months before) the acquisition of real property.

Two current appraisals are required if the first appraisal obtained results in an appraised value exceeding \$100,000. The cost of obtaining an appraisal is an allowable cost. Appraisals must be performed by licensed members of the appraiser's profession. The second appraisal may be performed by a professional State Government appraiser.

- K. Maine Human Rights Act of 1972 (5 M.R.S.A § 4551, et.seq.)** prohibits discrimination on the grounds of religion or gender. Any person who believes he or she has been discriminated against on these or the above grounds in any program, activity, or facility operated by a recipient of Federal or State assistance should write to: Maine Human Rights Commission, State House Station 51, Augusta, Maine 04333-0051.

Chapter 8. FUNDING REQUIREMENTS

Projects will normally be funded on a 50 percent HPF, 50 percent non-Federal basis. Eligible matching share can be cash (preferable, but not required), donated labor (volunteers), and in-kind services. In some cases donated equipment or donated space, if a significant and essential component of the project, may be used as matching share. All HPF match must be from non-Federal sources, except for Community Development Block Grants. Expenditures will be reimbursed only if they are part of the contracted budget and: a) are in payment of an obligation incurred during the grant period; b) are necessary for the accomplishment of approved project objectives; c) conform to appropriate Federal cost principals (OMB Circulars A-87 and A-122) and State requirements; and d) are approved in advance by the Commission and the Department of the Interior as necessary.

A. Allowable Costs.

This list of allowable costs is excerpted from the Historic Preservation Fund Grants Manual, Chapter 13 Standards for Allowability of Costs available at https://www.nps.gov/preservation-grants/HPF_Manual.pdf.

1. Accounting Costs.

The cost of establishing and maintaining accounting and other fiscal information systems is allowable.

2. Advertising and Public Relations Costs.

a. Advertising media include newspapers, magazines, radio and television programs, direct mail, exhibits, and the like. Historic Preservation Fund Grants Manual Chapter a. Allowable advertising costs are those which are solely for: recruitment of personnel necessary for the grant program; the procurement of goods and services required for the performance of the HPF grant agreement; and notices required by Federal or State regulations pertaining to the HPF program.

b. Public Relations costs are allowable when: (1) specifically required by the Federal award and then only as a direct cost; (2) incurred to communicate with the public and press pertaining to specific activities or accomplishments that result from performance of the Federal award and then only as a direct cost; or (3) necessary to conduct general liaison with news media and government public relations officers, to the extent that such activities are limited to communication and liaison necessary to keep the public informed on matters of public concern, such as notices of Federal contract/grant awards, financial matters, etc. (Also see Public Information Costs, Section B.36, below.)

3. Automatic Electronic Data Processing.

The cost of data processing services is allowable (also see Section B.17, regarding Equipment).

4. Communications.

Communication costs incurred for telephone calls or service, mail, messenger, and similar communication expenses necessary for and directly related to HPF grant program operations are allowable.

5. Compensation for Personal Services (including Fringe Benefits).

a. General. For State and local governments, compensation for personal services includes all remuneration, paid currently or accrued, for services rendered during the period of performance under the grant agreement, including but not necessarily limited to wages, salaries and fringe benefits. Such compensation is allowable to the extent that it satisfies the specific requirements of the OMB Cost Principles and that the total compensation for individual employees:

- 1) Is reasonable for the services rendered, and conforms to the established policy of the governmental unit consistently applied to both Federal and nonfederal activities;
- 2) Follows an appointment made in accordance with State, local, or Indian tribal government laws and rules and which meets other requirements required by Federal law, where applicable.

See HPF Grants Manual Chapter 13, pages 13-3 to 13-7 for complete discussion of Compensation and Personal Services costs.

6. Development Costs.

Development costs incurred by subgrant, contract or force account as follows are allowable when such work complies with the Secretary of the Interior's Standards for the Treatment of Historic Properties and with the provisions of Section K of Chapter 6 of the Historic Preservation Fund Grants Manual:

- a. Costs of exterior work, structural work, and necessary improvements in wiring, plumbing, and other utilities;
- b. Costs of interior restoration if the public is to have access to the interior in accordance with public benefit policies.

7. Equipment and Other Capital Expenditures.

Any article of nonexpendable tangible personal property having a useful life of more than one (1) year and an acquisition cost of \$5,000 or less is defined as supplies, and is allowable as a direct cost, without specific prior NPS approval, if necessary for the performance of the HPF grant. (See Section C.2 of this Chapter for prior approval of items costing more than \$5,000.) When replacing equipment purchased with Federal funds, the grantee may use the equipment to be replaced as a trade-in or sell the property and use the proceeds to offset the cost of the replacement equipment. Capital expenditures which are not charged directly to a Federal award may be recovered through use allowances, or depreciation (see Section B.13).

8. Exhibits.

Costs of temporary exhibits relating specifically to HPF grant assisted program operations, accomplishments, or results are allowable. (See Section D.29 for unallowable exhibition costs.)

9. General Conditions for Construction Contracts.

This term, used in construction cost estimates, bids, and construction administration documents, refers to provisions by the general contractor of miscellaneous requirements to other contractors and subcontractors, thereby eliminating the duplication and expense of each trade providing its own temporary facilities. General conditions including, but not limited to, temporary heat, power, lighting, water, sanitary facilities, scaffolding, elevators, walkways and railings, construction office space and storage, as well as cleanup, security, and required insurance, permits, and surety bonds, are allowable when identified as a line item in the project application. (See Section D.9. for contingency costs, and D.22 for insurance costs, which are unallowable.)

10. Indirect Costs.

Indirect costs are allowable only in accordance with the applicable indirect cost principles and when based on a current approved or provisional rate awarded by the cognizant Federal agency. (See Chapter 12; also see Section D.21 of Chapter 13.)

11. Insurance and Indemnification.

Costs of hazard and liability insurance to cover personnel or property directly connected with the HPF-assisted program or project site required or approved and maintained pursuant to the grant agreement are allowable during the grant period. Costs of other insurance in connection with the general conduct of activities are allowable if maintained in accordance with sound business practice, except that the types and extent and cost of coverage or of contributions to any reserve covering the risk of loss of, or damage to, Federal Government property are unallowable except to the extent that the NPS has specifically required or approved such costs. (See OMB Circular A-87, Item B.25, for the allowability of self-insurance reserves.) For nonprofit grantees, see OMB Circular A-122, Item 18. (Also see Section D.22 for certain unallowable insurance costs.)

12. Interpretive Signs.

The costs of purchasing and installing (but not maintaining) a minimum number of interpretive or informational markers or signs at grant-assisted historic buildings and structures and archeological sites are allowable. (See Section D.24, below.)

13. Landscaping.

Costs of landscaping are allowable as follows:

- a. Restoration, rehabilitation, stabilization, or protection of a well-documented historic landscape listed in the National Register of Historic Places either individually, or as a contributing element to a National Register property;
- b. Grading for purposes of drainage, building or site safety, and protection of a National Register listed property;
- c. Improvements necessary to facilitate access for the disabled to a National Register listed property; or
- d. Revegetation to stabilize and protect an archeological site or other National Register property.

(Note: Non-historic features such as parking lots, street paving, street lamps, and benches are not eligible for HPF grant assistance.)

14. Materials and Supplies.

The cost of materials and supplies necessary to carry out the HPF grant program is allowable. Purchases made specifically for the grant program should be charged at their actual prices after deducting all cash discounts, trade discounts, rebates, and allowances received. Withdrawals from general stores or stockrooms should be charged at cost under any recognized method of pricing, consistently applied. Incoming transportation charges are a proper part of materials and supplies costs.

15. Page Charges in Scientific or Professional Journals.

Page charges for scientific or professional publications are allowable as a necessary part of grant cost where: the papers report work supported by the HPF grant and acknowledge the grant; the charges are levied impartially on all papers published by the journal, whether by non-government or by Government authors; and there will be a significant and direct benefit to the achievement of HPF grant program objectives.

16. Plans and Specifications.

Costs of architectural plans and specifications, shop drawings, and/or other materials required to document and plan development project work according to the Secretary's Standards for the Treatment of Historic Properties are allowable.

17. Professional and Consultant Service Costs.

a. Costs of professional and consultant services rendered by persons or organizations that are members of a particular profession or possess a special skill, whether or not officers or employees of the grantee, are allowable, subject to the provisions of Chapter 5 of the Historic Preservation Fund Grants Manual and subject to the subsections below, when reasonable in relation to the services rendered, and when not contingent upon recovery of the costs from the Government (i.e., contingent fees are prohibited).

b. Factors to be considered in determining the allowability of costs in a particular case include: 1) the nature and scope of the service rendered in relation to the service required; 2) the necessity of contracting for the service, considering the grantee organization's capability in a particular area; 3) the impact of HPF grants on the grantee organization; (4) the qualifications of the individual or concern rendering the service and the customary fees charged, especially on non-government contracts and grants; and 5) the adequacy of the contractual agreement for the service (i.e., description of the service and products to be provided, estimate of time required, rate of compensation, and termination provisions).

Retainer fees supported by evidence of bona fide services available or rendered are allowable.

c. Costs of legal, accounting, and consulting services, and related costs incurred in the prosecution of claims against the Government are unallowable. (See Section D.33.)

d. Written agreements shall be executed between the parties which detail the responsibilities, standards, and fees.

e. Compensation for Consultants. No person employed as a consultant, or by a firm providing consultant services, shall receive more than a reasonable rate of compensation for personal services paid with HPF funds, or when such services are contributed as nonfederal share. This rate shall not exceed the maximum daily rate of compensation in the Federal Civil Service equal to 120 percent of a GS-15, step 10 salary (as of January 2016 this rate is \$91.25/hour). When consultant services rates exceed this rate, only the amount up to that rate can be charged to the HPF grant, or be claimed as nonfederal matching share costs. Where consultants are hired at salaries above that rate, the excess costs must be paid outside the historic preservation grant (and nonfederal share).

f. For nonprofit grantees, also see OMB Circular A-122, Item 37.

18. Public Information Services Costs.

Public information services costs include the costs associated with newsletters, pamphlets, news releases, films, videotapes, and other forms of historic preservation related information services.

a. Allowable costs are those normally incurred to: 1) inform or instruct individuals, groups, or the general public about specific historic preservation activities, accomplishments, and issues that result from performance of the HPF grant; 2) interest individuals and organizations in participating in HPF grant supported programs of the grantee and the achievement of NPS approved work program objectives; 3) provide necessary stewardship reports to State and local government agencies, contributing organizations, and the like; or to 4) disseminate the results of grantee sponsored activities to preservation professionals, interested organizations, and the general public.

b. Within the foregoing parameters, public information services which (1) are not directly related to historic preservation or NPS approved activities, or (2) are costs related to

fundraising appeals are unallowable. Public information costs are allowable as direct costs only. For nonprofit organizations, see OMB Circular A-122, Item 37.

19. Publication and Printing Costs.

Costs of printing and reproduction services necessary for grant administration, including but not limited to forms, manuals, the State Comprehensive Historic Preservation Plan, annual subgrant application instructions, and informational literature, are allowable. Publication costs of reports or other media relating to HPF grant program accomplishments or results are allowable when necessary to comply with grant supported program or project requirements, such as Final Project reports, publications undertaken at the written direction of NPS, as well as other publications necessary for grant assisted program administration. See Chapter 3, Section D.3. In addition, for nonprofit organizations, see OMB Circular A-122, Item 38.

20. Rental Costs.

Rental of office space is allowable, subject to the provisions of Chapter 12, Section C, and OMB Circular A-87, Item B.38. The cost of office space in privately or publicly owned buildings used for the benefit of the grant program is allowable subject to the following conditions: (1) the total cost of space, in a privately or publicly owned building, may not exceed the rental cost of comparable space and facilities in a privately owned building in the same locality; (2) the cost of space procured for grant program usage may not be charged to the program for periods of nonoccupancy without authorization of NPS. For nonprofit organizations, see OMB Circular A-122, Item 43.

Equipment rental is allowable only to the extent that the equipment is only needed for a short time and it would not be more cost effective to purchase the equipment.

21. Research.

Costs of historical, architectural, and archeological research necessary for project accomplishment are allowable. Purely archival research is unallowable. (See Section D.1, below.)

22. Signs.

Costs of signs acknowledging HPF assistance at construction project sites during the grant period are allowable. [See Chapter 6, Section K.2.b.3]

23. Travel.

Travel costs are allowable for expenses for transportation, lodging, subsistence, and related items incurred by employees traveling on official business incident to the HPF grant program. Such costs may be charged on an actual basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip, and results in charges consistent with those normally allowed in like circumstances in non-Federally sponsored activities. Lodging costs must be documented by a receipt in order to be eligible for reimbursement under the HPF grant.

The maximum rate for use of privately-owned vehicles is 44 cents per mile for persons on official travel status relating to the project. Commuting costs are not allowable. The costs of lodging and per diem are not normally allowed by the Commission, but in extraordinary circumstances may be allowed for projects which are located more than 50 miles from the grant recipient's offices.

<http://www.policyworks.gov/org/main/mt/homepage/mtt/pov.htm>.)

B. Unallowable Costs.

This list of allowable costs is excerpted from the Historic Preservation Fund Grants Manual, Chapter 13 Standards for Allowability of Costs available at https://www.nps.gov/preservation-grants/HPF_Manual.pdf.

1. Archival Research.

Costs of purely archival research are unallowable. Grant-assisted research must directly relate to achieving the purposes of the HPF grant program.

2. Alcoholic Beverages.

Costs of Alcoholic Beverages are unallowable.

3. Archeological Salvage.

Costs of data recovery unrelated to increasing an understanding of a National Register property are unallowable. (See Chapter 6, Section K.4.d

4. Church-owned Property.

~~Costs of acquiring and/or repairing church-owned property are unallowable because of the Administration's policy on maintaining the separation of Church and State. (See Chapter 6, Section D.6 for allowable technical assistance and planning costs.)~~ THIS SECTION HAS BEEN REPEALED BY DECISION OF THE DEPARTMENT OF JUSTICE, April 30, 2003.

5. Conditional Donations.

Any donation of real property containing a reversionary provision to the donor which can be exercised during the term of the covenant is not eligible as matching share.

6. Contingencies.

Contributions to a contingency reserve or any similar provision made for events the occurrence of which cannot be foretold with certainty as to time, or intensity, or with an assurance of their happening, are unallowable. (The term "contingency reserve" excludes self-insurance, pension plan, and post-retirement health benefit reserves computed using acceptable actuarial cost methods; see Section B.12.)

7. Contributions and Donations.

a. Charitable contributions and donations of grant funds, property, or grant-assisted services are unallowable. For nonprofit grantees, see OMB Circular A-122, Item 8, and see discussion of donations in A-122, Item 10.

b. The value of services donated by employees or other persons paid with HPF grant funds or other Federal funds is unallowable.

c. Donated goods (i.e., expendable personal property/supplies and donated use of space) may be furnished to a grantee, subgrantee, or grant supported contractor. The value of the goods and space is not reimbursable as a direct or indirect cost. However, the value of the donations may be used to meet matching share requirements when determined in accordance with the conditions described in Chapter 14.

8. Curation.

Costs of curation or exhibition of artifacts or other materials after the project end date are unallowable.

9. Entertainment.

Costs of entertainment, including amusements, social activities, and any costs directly associated with such costs (such as tickets to shows or sports events, meals, lodgings, rentals, transportation, and gratuities) are unallowable. For nonprofit grantees, see OMB Circular A-122, Item 12.

10. Equipment.

Equipment and other capital expenditures are unallowable as indirect costs. (See Section B.13, for the allowability of use allowances or depreciation on buildings, capital improvement, and equipment.)

11. Federal Properties.

Costs related to federally owned properties are not eligible for HPF assistance. (However, see Chapter 6, Section H.3.i., for allowable costs for surveys on Federal lands.) Note that the Consolidated Rail Corporation is not an instrumentality of the Federal Government and is therefore eligible for grant assistance. (See 45 U.S.C. 741b.)

12. Fines and Penalties.

Fines, penalties, damages, and other settlements resulting from violations (or alleged violations) of, or failure of the grantee to comply with, Federal, State, local, or Indian tribal laws and regulations are unallowable, except when incurred as a result of compliance with specific provisions of the Federal award or written instructions by NPS authorizing in advance such payments. For nonprofit grantees, see OMB Circular A-122, Item 14.

13. Fundraising and Investment Management Costs.

Expenses and costs of organized fundraising, including financial campaigns, endowment drives, solicitation of gifts and bequests, investment counsel, and similar expenses incurred to raise capital or obtain contributions are unallowable. For nonprofit grantees, see OMB Circular A-122, Item 19 for other unallowable fundraising costs.

14. Honoraria.

Payments of HPF grant funds for honoraria are not allowable when the primary intent is to confer distinction on, or to symbolize respect, esteem, or admiration for, a recipient. (Payments for services rendered, such as a speaker's fee at a grant-assisted workshop, are allowable.)

15. Idle Facilities and Idle Capacity.

For State and local government grantees, the provisions of OMB Circular A-87, Item B.24 are applicable. For nonprofit grantees, the provisions of OMB Circular A-122, Item 16, are applicable.

16. Indirect Costs to Individuals.

Indirect costs to individuals under grantee awarded subgrants and contracts are not allowable. "Overhead" or administrative support costs must be charged on a direct cost basis and documented by appropriate supporting documentation.

17. Insurance and Indemnification.

Actual losses which could have been covered by permissible insurance (through an approved self insurance program or otherwise) are unallowable unless expressly provided for in the grant agreement.

18. Interest and Other Financial Costs.

Costs incurred for interest on borrowed capital or the use of a grantee's own funds, however represented, are unallowable, except as specifically provided in Item B.23 of this Chapter, or when authorized by Federal legislation.

19. Interpretive Expenses.

Interpretive expenses, such as staff salaries or maintenance of interpretive devices (with the exception of purchase and installation costs for such devices in accordance with Section B.24 above) are unallowable.

20. Lobbying.

The cost of certain activities associated with obtaining grants, contracts, cooperative agreements, or loans is an unallowable cost.

21. Maintenance and Administration.

Costs of ongoing maintenance and administration of properties following HPF grant assistance are not allowable, in accordance with Section 102(a)(5) of the Act, as amended. This prohibition is not applicable to the National Trust.

22. Meals.

Costs of meals for grantee employees, Review Board members (including any other State oversight or advisory boards), or CLG Commission members are unallowable except as per diem when such persons are on travel status in conjunction with activities eligible for HPF assistance.

23. Mitigation Expenses.

Costs of mitigation activities performed as a condition or pre-condition for obtaining a Federal permit or license or funding by other Federal programs are not allowable. 29. Museums.

Costs of museum exhibits, staff salaries, and other administrative expenses, including maintenance, are unallowable, if they are not directly related to HPF eligible activities. (See Section B.18.)

24. Nonconformance with Applicable Secretary of the Interior's Standards.

Work performed under grants, subgrants, or other contractual arrangements that do not conform to the applicable Secretary's Standards are unallowable costs.

25. Organization Costs.

For nonprofit grantees, see OMB Circular A-122, Item 27.

26. Profits and Losses on Disposition of Depreciable Property or Other Capital Assets.

For State and local government and Indian tribe grantees, see OMB Circular A-87, Item B.22. For nonprofit grantees, see OMB Circular A-122, Item 36.

27. Prohibition on Compensating Intervenors.

Compensation to any person intervening in any proceeding under the Act is unallowable due to the provisions of Section 101(f) of the National Historic Preservation Act. (See Legal Expenses in Section B.27.)

C. Allowable Match

1. Cash.

2. Donated services by volunteers who are necessary for the completion of the project will be valued at the Maine State Government position or at the State minimum wage of \$7.50 per hour. Except for persons valued at minimum wage, documentation in the form of resumés and/or other information is required for volunteers. In-kind services performed by full-time staff of the grant recipient within the scope of their normal responsibilities in excess of their normal working hours is not allowable as match.

Chapter 9. ADMINISTRATION

A. General Supervision

The Director shall supervise all grant awards and the projects financed by such awards.

B. Applications

Applications shall be processed according to the procedures set forth in this rule.

C. Enforcement

Where it is determined that any grant recipient has not fulfilled the terms of the Grant Agreement, and administrative efforts to obtain compliance are unsuccessful, the Director shall refer the matter to the Attorney General for enforcement action.

Chapter 10. GRANT AWARD PROCEDURES

A. Grant Application Information

The Director will distribute grant applications and grants manuals containing the rules and other information pertaining to administration of Preservation Grants. Announcements will be made annually through legal notices and posting on the Commission's website (<http://www.maine.gov/mhpc/grants>) as long as grant funds remain available.

B. Grant Review and Implementation Schedule

May 30, 2016: Deadline for receipt of draft applications (optional).

June 23, 2016: Deadline for receipt of final applications

June-July: Commission reviews applications and awards grants.

July 2016: Commission develops contract documents.

NO PROJECT EXPENSES MAY BE INCURRED PRIOR TO COMMISSION NOTIFICATION OF APPLICANT THAT THE LAST STEP ABOVE HAS BEEN SATISFACTORILY COMPLETED.

C. Grievance Procedure

1. Any applicant aggrieved by the grant award decision of the Director and the Commission may appeal to the Director for a review. Any such appeal must be in writing and shall set forth the manner in which the aggrieved claims a decision was arbitrary or unreasonable. An appeal must be made within 10 days of receipt of notification of adverse decision.
2. The Director may, at his discretion, hold a meeting with the aggrieved applicant. The Director shall appoint a grievance committee of three persons to conduct a review of the appeal. The committee will include representatives from the Commission. The Committee shall, within 21 days, issue a report to the Director which addresses whether the original decision was arbitrary or unreasonable.
3. The final decision of the Director, with approval of the Commission, shall be made in accordance with the selection criteria, after considering the recommendations of the grievance committee. Such a decision shall be final agency action on the matter.
4. An aggrieved applicant may be awarded a grant or an increased grant amount where previously denied or limited to a lower figure only when the

grant would not require the denial or decrease in a grant award of other eligible applicants which have already executed contracts or covenants.

Chapter 11. GRANT AWARD REQUIREMENTS

A. Grant Orientation Meeting

1. All grant recipients shall schedule and participate in a grant orientation meeting with the Commission's Grant Manager upon receipt of a formal grant notification award letter from the Commission. The purpose of the orientation meeting is to confirm the budget and the timetable for completion, and discuss procurement requirements and reimbursement procedures.

B. HPF Contract

1. A successful grant recipient shall enter into an HPF Contract that shall include the amount of the grant award, the project schedule, the scope of work for the project, a total project budget and general requirements of the grant award.
2. The Grantee must submit a signed copy of the Contract with an original signature to the Commission prior to commencing any work.
3. This contract shall substantially conform to the sample HPF Contract in Appendix B.

C. INTERIM REPORT

1. The Grantee shall complete quarterly interim reports as scheduled in the contract and submit them to the Commission. Interim reporting forms will be provided to grant recipients for their use.

Chapter 22. STATUTORY AUTHORITY

27 M.R.S.A. §§504, 505, 506; 27 M.R.S.A. §558; and 33 M.R.S.A. §§ 1551-1555.

APPENDIX A: PROFESSIONAL QUALIFICATIONS, 36 CFR 61

In the following definitions, a year of full-time professional experience need not consist of a continuous year of full-time work but may be made up of discontinuous periods of full-time or part-time work adding up to the equivalent of a year of full-time experience.

A. History. The minimum professional qualifications in history are a graduate degree in history or closely related field; or a bachelor's degree in history or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of history.

B. Architectural History. The minimum professional qualifications in architectural history are a graduate degree in architectural history, art history, historic preservation, or closely related field, with coursework in American architectural history; or a bachelor's degree in architectural history with concentration in American architecture; or a bachelor's degree in architectural history, art history, historic preservation, or closely related field plus one of the following:

1. At least two years of full-time experience in research, writing, or teaching in American architectural history or restoration architecture with an academic institution, historical organization or agency, museum, or other professional institution; or
2. Substantial contribution through research and publication to the body of scholarly knowledge in the field of American architectural history.

C. Architecture. The minimum professional qualifications in architecture are a professional degree in architecture plus at least two years of full-time professional experience in architecture; or a State license to practice architecture.

D. Historical Architecture. The minimum professional qualifications in historical architecture are a professional degree in architecture or State license to practice architecture, plus one of the following:

1. At least one year of graduate study in architectural preservation, American architectural history, preservation planning, or closely related field, and at

least one year of full-time professional experience on preservation and restoration projects; or

2. At least two years of full-time, professional experience on preservation and restoration projects. Experience on preservation and restoration projects shall include detailed investigations of historic structures, preparation of historic structures research reports, and preparation of plans and specifications for preservation projects.

E. Archaeology. The minimum professional qualifications in archaeology are a graduate degree in archaeology, anthropology, or closely related field plus:

1. At least one year of full-time professional experience or equivalent specialized training in archaeological research, administration, or management;
2. At least four months of supervised field and analytic experience in general North American archaeology;
3. Demonstrated ability to carry research to completion; and
4. At least one year of full-time professional experience at a supervisory level in the study of archaeological resources of the prehistoric or historic period for, respectively, professionals in prehistoric or historical archaeology.

In addition, the Commission has established the following requirements:

1. Professional experience in prehistoric and/or historic archaeology in northern New England;
2. Institutional or corporate affiliation to ensure fiscal accountability; and
3. Commitment from an institution or agency for proper curation of recovered materials.

APPENDIX B: SAMPLE HPF CONTRACT

AdvantageME CT No:

STATE OF MAINE
 MAINE HISTORIC PRESERVATION COMMISSION
 Agreement to Purchase Services

THIS AGREEMENT, made this ____ day of _____, is by and between the State of Maine, Maine Historic Preservation Commission, hereinafter called "Department," and the _____, located at _____, _____, telephone number _____, hereinafter called "Provider", for the period of _____ to _____.

The AdvantageME Vendor/Customer number of the Provider is _____.

WITNESSETH, that for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the Department, the Provider hereby agrees with the Department to furnish all qualified personnel, facilities, materials and services and in consultation with the Department, to perform the services, study or projects described in Rider A, and under the terms of this Agreement. The following riders are hereby incorporated into this Agreement and made part of it by reference:

Rider A - Specifications of Work to be Performed

Rider B - Payment and Other Provisions

Rider D - Provider's application for FY 2016 HPF Education, Planning,
Survey and National Register Project Grant assistance

Rider G - Identification of Country in Which Contracted Work will be
Performed

WITNESSETH, that this contract is consistent with Executive Order 17 FY 08/09 or a superseding Executive Order, and complies with its requirements.

IN WITNESS WHEREOF, the Department and the Provider, by their representatives duly authorized, have executed this agreement in four (4) original copies.

MAINE HISTORIC PRESERVATION COMMISSION

By: _____

Kirk F. Mohny, Director

and

APPLICANT

By: _____

Name and Title, Provider Representative

Total Agreement Amount:

Approved: _____

Chair, State Purchases Review Committee

BP54 (Rev 1/12)

AdvantageME ACCOUNT CODING

VC NUMBER	DOC TOTAL	FN D	DE PT	UNIT		SU B UN IT		OBJ		JOB NO.	PROG RAM

VC NUMBER	DOC TOTAL	FN D	DE PT	UNIT		SU B UN IT		OBJ		JOB NO.	PROG RAM

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VC NUMBER	DOC TOTAL	FN D	DE PT	UNIT		SU B UN IT		OBJ		JOB NO.	PROG RAM

RIDER A
SPECIFICATIONS OF WORK TO BE PERFORMED

In addition to what is noted on the cover page of this contract, the Maine Historic Preservation Commission is also hereby referred to as the "Commission" or the "Grantee" and the Provider is also hereby referred to as the "Recipient" or "Subrecipient". The Commission and the Provider mutually agree as follows:

The Provider has been awarded a U.S. Department of the Interior grant-in-aid in an amount not to exceed the dollar value shown on the cover page of this contract, for the purpose of conducting the _____ project in accordance with the scope of work, and timetable provided with this contract. These Federal funds must be matched on a 1:1 basis.

ARTICLE I – INSURANCE AND LIABILITY

(a) Insurance. The Recipient shall be required to (1) obtain liability insurance or (2) demonstrate present financial resources in an amount determined sufficient by the Government to cover claims brought by third parties for death, bodily injury, property damage, or other loss resulting from one or more identified activities carried out in connection with this financial assistance agreement.

(b) Insured. The federal government shall be named as an additional insured under the Recipient's insurance policy.

(c) Indemnification. The Recipient hereby agrees to indemnify the federal government, NPS or from any act or omission of the Recipient, its officers, employees, or (members, participants, agents, representatives, agents as appropriate), (1) against third party claims for damages arising from one or more identified activities carried out in connection with this financial assistance agreement and (2) for damage or loss to government property resulting from such an activity. This obligation shall survive the termination of this Agreement.

1. To purchase public and employee liability insurance at its own expense from a responsible company or companies with a minimum limitation of one million dollars (\$1,000,000) per person for anyone claim, and an aggregate limitation of Three Million Dollars (\$3,000,000) for any number of claims arising from any one incident. The policies shall name the United States as an additional insured, shall specify that the insured shall have no right of subrogation against

the United States for payments of any premiums or deductibles due thereunder, and shall specify that the insurance shall be assumed by, be for the account of, and be at the insured's sole risk. Prior to beginning the work authorized herein, the Recipient shall provide the NPS with confirmation of such insurance coverage.

2. To pay the United States the full value for all damage to the lands or other property of the United States caused by the Recipient, its officers, employees, or representatives.
3. To provide workers' compensation protection as required by state and federal law.
4. To cooperate with NPS in the investigation and defense of any claims that may be filed with NPS arising out of the activities of the Recipient, its agents, and employees.

(d) Flow-down: For the purposes of this clause, "Recipient" includes such sub-recipients, contractors, or subcontractors as, in the judgment of the recipient and subject to the Government's determination of sufficiency, have sufficient resources and/or maintain adequate and appropriate insurance to achieve the purposes of this clause.

ARTICLE II– EQUIPMENT PURCHASE AND PROPERTY UTILIZATION

Grantees must obtain written permission from the Commission before expending **grant** funds for tangible, nonexpendable personal property, including exempt property, having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

Grantees must maintain a property inventory record and comply with the property management requirements set forth in 2 CFR 200.310 through 200.316 for all equipment purchased with **grant** funds and must report on all equipment with each Interim Report. When grantees are ready to dispose of equipment purchased with grant funds (under this **grant** or any past **grant**) and the equipment retains a value of \$5,000 or more per unit, written disposition instructions must be requested from, and approved by the Commission through the submission of an SF428c, *Tangible Personal Property Report - Disposition Request/Report*.

For the purposes of this article, "grantee" includes equipment purchase and property utilization by such Subrecipients, contractors, or subcontractors awarded a subgrant from the Recipient.

ARTICLE III – MODIFICATION, REMEDIES FOR NONCOMPLIANCE TERMINATION

- A. This Agreement may be modified only by a written instrument executed by the Commission.
- B. Additional conditions may be imposed by Commission if it is determined that the Recipient is non-compliant to the terms and conditions of this agreement. Remedies for Noncompliance can be found in 2 CFR 200.338.
- C. This Agreement may be terminated consistent with applicable termination provisions for Agreements found in 2 CFR 200.339 through 200.342.

ARTICLE IV – GENERAL AND SPECIAL PROVISIONS

A. General Provisions

1. **OMB Circulars and Other Regulations.** The following Federal regulations are incorporated by reference into this Agreement (full text can be found at <http://www.ecfr.gov>.)

- a) **Administrative Requirements:**

2 CFR, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards;

- b) **Determination of Allowable Costs:**

2 CFR, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart E;

and

- c) **Audit Requirements:**
2 CFR, Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Subpart .

- d) **Code of Federal Regulations/Regulatory Requirements:**
43 CFR 43, “Government wide Requirements for a Drug-Free Workplace”;

CFR Part 1400, “Non-Procurement Debarment and Suspension”, previously located at 43 CFR Part 42, “Government wide Debarment and Suspension (NonProcurement)”;

43 CFR 18, “New Restrictions on Lobbying”;

2 CFR Part 175, “Trafficking Victims Protection Act of 2000”;

FAR Clause 52.203-12, Paragraphs (a) and (b), Limitation on Payments to Influence Certain Federal Transactions;

2 CFR Part 25, System for Award Management (www.SAM.gov) and Data Universal Numbering System (DUNS); and

2 CFR Part 170, “Reporting Subawards and Executive Compensation”.

- 2. **Buy American Act.** Pursuant to Section 307 of the Omnibus Consolidated Appropriations Act of 1997, Public Law 104-208, 110 Stat. 3009, Recipient agrees to follow the requirements in 43 CFR Part 12, Subpart E, Buy American Requirements for Assistance Programs; in the case of any equipment or product that may be authorized to be purchased with financial assistance provided using funds made available in this Act, it is the sense of the Congress that entities receiving the assistance should, in expending the assistance, purchase only American-made equipment and products.
- 3. **Non-Discrimination.** All activities pursuant to this Agreement shall be in compliance with the requirements of Executive Order 11246, as amended;

Title VI of the Civil Rights Act of 1964, as amended, (78 Stat. 252; 42 U.S.C. §§2000d et seq.); Title V, Section 504 of the Rehabilitation Act of 1973, as amended, (87 Stat. 394; 29 U.S.C. §794); the Age Discrimination Act of 1975 (89 Stat. 728; 42 U.S.C. §§6101 et seq.); and with all other federal laws and regulations prohibiting discrimination on grounds of race, color, sexual orientation, national origin, disabilities, religion, age, or sex.

4. **Lobbying Prohibition.** 18 U.S.C. §1913, Lobbying with Appropriated Moneys, as amended by Public Law 107-273, Nov. 2, 2002 - No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Members or official, at his request, or to Congress or such official, through the proper official channels, requests for legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31. In addition to the above, the related restrictions on the use of appropriated funds found in Div. F, § 402 of the Omnibus Appropriations Act of 2008 (P.L. 110-161) also apply.

5. **Anti-Deficiency Act.** Pursuant to 31 U.S.C. §1341 nothing contained in this Agreement shall be construed as binding the NPS to expend in any one fiscal year any sum in excess of appropriations made by Congress, for the purposes of this Agreement for that fiscal year, or other obligation for the further expenditure of money in excess of such appropriations.

6. **Minority Business Enterprise Development.** Pursuant to Executive Order 12432 it is national policy to award a fair share of contracts to small and minority firms. NPS is strongly committed to the objectives of this policy and encourages all recipients of its Cooperative Agreements to take affirmative

steps to ensure such fairness by ensuring procurement procedures are carried out in accordance with 43 CFR 12.944 for Institutions of Higher Education, Hospitals and Other Non-Profit Organizations, and 43 CFR 12.76 for State and Local Governments.

7. **Assignment.** No part of this Agreement shall be assigned to any other party without prior written approval of the Commission and the Assignee.
8. **Member of Congress.** Pursuant to 41 U.S.C. § 22, no Member of Congress shall be admitted to any share or part of any contract or agreement made, entered into, or adopted by or on behalf of the United States, or to any benefit to arise thereupon.
9. **Agency.** The Recipient is not an agent or representative of the United States, the Department of the Interior, NPS, or the Commission, nor will the Recipient represent its self as such to third parties. Commission employees are not agents of the Recipient and will not act on behalf of the Recipient.
10. **Non-Exclusive Agreement.** This Agreement in no way restricts the Recipient or Commission from entering into similar agreements, or participating in similar activities or arrangements, with other public or private agencies, organizations, or individuals.
11. **Survival.** Any and all provisions which, by themselves or their nature, are reasonably expected to be performed after the expiration or termination of this Agreement shall survive and be enforceable after the expiration or termination of this Agreement. Any and all liabilities, actual or contingent, which have arisen during the term of and in connection with this Agreement shall survive expiration or termination of this Agreement.
12. **Partial Invalidity.** If any provision of this Agreement or the application thereof to any party or circumstance shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such provision to the parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.
13. **Captions and Headings:** The captions, headings, article numbers and paragraph numbers appearing in this Agreement are inserted only as a

matter of convenience and in no way shall be construed as defining or limiting the scope or intent of the provision of this Agreement nor in any way affecting this Agreement.

14. No Employment Relationship. This Agreement is not intended to and shall not be construed to create an employment relationship between the Commission and Recipient or its representatives. No representative of Recipient shall perform any function or make any decision properly reserved by law or policy to the Federal government or the State of Maine.

15. No Third-Party Rights. This Agreement creates enforceable obligations between only the Commission and Recipient. Except as expressly provided herein, it is not intended nor shall it be construed to create any right of enforcement by or any duties or obligation in favor of persons or entities not a party to this Agreement.

16. Foreign Travel. The Recipient shall comply with the provisions of the Fly America Act (49 USC 40118). The implementing regulations of the Fly America Act are found at 41 CFR 301-10.131 through 301-10.143.

B. Special Provisions

1. Nonfederal Matching Share. At least \$_____ in eligible nonfederal matching contributions that are allowable and properly documented in accordance with 43 CFR 12.64 must be used by the Subrecipients during the grant period to share the costs for this grant. Failure to use the required non-Federal matching share will result in the disallowance of costs reimbursed, and/or the deobligation of remaining unexpended funds.

2. Commission Concurrence with Selection of Consultants. The Provider must submit documentation of responses to its competitive selection process, along with its justification and resume(s) for which consultant(s) selected for grant-assisted work, to the Commission for approval. The consultant(s) must have requisite experience and training in historic preservation to oversee any construction work to be performed and to manage this complex project. All consultants must be competitively selected and documentation of this selection must be maintained by the Provider and be made readily available for examination by the Commission. **Maximum hourly rates charged to this grant may not exceed 120% of a Federal Civil**

Service GS-15, step 10 salary. Current salary tables can be found on the Office of Personnel and Management website: www.opm.gov.

3. **Commission Review of Planning/Design Documents for Conformance to the Secretary of the Interior's *Standards*.** If plans or specifications have changed from those submitted with the Subrecipients' application for an HPF grant, the Subrecipient must submit revised construction documents to the Grantee for its review and approval to ensure conformance with the Secretary of the Interior's *Standards for Historic Preservation and Archeology*, and with the conditions listed in this Grant Agreement, prior to the beginning of grant-assisted repair work on the property. Work that does not comply with these *Standards* in the judgment of the Commission will not be reimbursed, and may cause the grant to be terminated and funds deobligated.

4. **Compliance with Section 106 of the National Historic Preservation Act.** Pursuant to Section 106 of the National Historic Preservation Act, NPS, the Subrecipient, and the Commission must complete the consultation process stipulated in the regulations issued by the Advisory Council for Historic Preservation in 36 CFR 800 prior to the commencement of all grant-assisted construction or ground disturbance on the property.

5. **Requirement for Project Sign.** The Subrecipient must erect and maintain a project sign at the project site. This sign must: be of reasonable and adequate design and construction to withstand weather exposure; be of a size that can be easily read from the public right-of-way; and be maintained in place throughout the project term as stipulated in this Grant Agreement. At a minimum, the sign must contain the following statement: "Construction of the [name of property] is being supported in part by a grant administered by the National Park Service, Department of the Interior." Additional information briefly identifying the historical significance of the property, or recognizing other contributors is encouraged and permissible. Photographs of the sign must be submitted to NPS at the start of the construction process. The cost of fabricating and erecting this sign is an eligible cost for this grant.

6. **Requirement for Executing Preservation Easement or Stewardship Agreement where applicable, for development projects.** The _____, as owner of the _____, must agree to assume, after the completion of the project, the total cost of continued maintenance, repair and administration of the grant-assisted property in a manner satisfactory to the Secretary of the Interior.

Accordingly, the _____ must sign a Stewardship Agreement (for awards up to \$10,000) or a Preservation Agreement (for awards over \$10,000) with the Commission. The term of the Easement must run for 20 years from the end date of this Grant Agreement. The Easement must be executed by registering it with the deed of the property.

7. Limitations on Administrative and Indirect Costs. Administrative costs charged to the subgrant may not exceed 15 percent of the total grant award. This limitation applies to the sum of the direct costs of administration and any indirect costs charged by the Subrecipients pursuant to a current Federally-approved indirect cost rate.

Administrative costs are those costs defined in the *HPF Grants Manual*, Chapter 6, Section F.1, and in Chapter 7, Exhibit 7-B.

8. Public Information and Endorsements.

- a) Recipient shall not publicize or otherwise circulate promotional material (such as advertisements, sales brochures, press releases, speeches, still and motion pictures, articles, manuscripts or other publications) which states or implies governmental, Departmental, bureau, or government employee endorsement of a business, product, service, or position which the Recipient represents. No release of information relating to this award may state or imply that the Government approves of the Recipient's work products, or considers the Recipient's work product to be superior to other products or services.
- b) All information submitted for publication or other public releases of information regarding this project shall carry the following disclaimer:

"The views and conclusions contained in this document are those of the authors and should not be interpreted as representing the opinions or policies of the U.S. Government. Mention of trade names or commercial products does not constitute their endorsement by the U.S. Government."

9. Publications of Results of Studies. Two copies of all publications and videos funded by this grant must be submitted to the NPS and must contain the required acknowledgement of support and nondiscrimination statements in accordance with Chapter 3 of the *HPF Grants Manual*. No party will

unilaterally publish a joint publication without consulting the other party. This restriction does not apply to popular publications of previously published technical matter. Publications pursuant to this Agreement may be produced independently or in collaboration with others; however, in all cases proper credit will be given to the efforts of those parties contribution to the publication. In the event no agreement is reached concerning the manner of publication or interpretation of results, either party may publish data after due notice and submission of the proposed manuscripts to the other. In such instances, the party publishing the data will give due credit to the cooperation but assume full responsibility for any statements on which there is a difference of opinion.

10. Rights in Data. The Recipient must grant the United States of America a royalty-free, non-exclusive and irrevocable license to publish, reproduce and use, and dispose of in any manner and for any purpose without limitation, and to authorize or ratify publication, reproduction or use by others, of all copyrightable material first produced or composed under this Agreement by the Recipient, its employees or any individual or concern specifically employed or assigned to originate and prepare such material.

11. Retention and Access Requirements for Records. All Recipient financial and programmatic records, supporting documents, statistical records, and other grants-related records shall be maintained and available for access in accordance with 43 CFR 12.82 for State, local and Indian tribal governments or 43 C.F.R. 12.953 for institutions of higher education, hospitals, other non-profit and all other organizations.

12. Audit Requirements.

- a) Non-Federal entities that expend \$750,000 or more during a year in Federal awards shall have a single or program-specific audit conducted for that year in accordance with the Single Audit Act Amendments of 1996 (31 U.S.C. 7501-7507) and 2 CFR Part 200, Subpart F, which is available at

<http://www.ecfr.gov/cgi-bin/text-idx?SID=fd6463a517ceea3fa13e665e525051f4&node=sp2.1.200.f&rgn=div6>

- b) Non-Federal entities that expend less than \$750,000 for a fiscal year in Federal awards are exempt from Federal audit requirements for that year, but records must be available for review or audit by appropriate

officials of the Federal agency, pass-through entity, and General Accounting Office (GAO).

- c) Audits shall be made by an independent auditor in accordance with generally accepted government auditing standards covering financial audits. Additional audit requirements applicable to this agreement are found at 43 CFR 12.66 or 43 CFR 12.926, as applicable. General guidance on the single audit process is included in a pamphlet titled, "Highlights of the Single Audit Process" which is available on the internet at <http://www.oig.dol.gov/public/reports/oa/documents/singleauditpamphlet.pdf>. Additional information on single audits is available from the Federal Audit Clearinghouse at <http://harvester.census.gov/sac/>.

13. Procurement Procedures. It is a national policy to place a fair share of purchases with minority business firms. The Department of the Interior is strongly committed to the objectives of this policy and encourages all recipients of its grants and cooperative agreements to take affirmative steps to ensure such fairness. Positive efforts shall be made by recipients to utilize small businesses, minority-owned firms, and women's business enterprises, whenever possible. Recipients of Federal awards shall take all of the following steps to further this goal:

- a) Ensure that small businesses, minority-owned firms, and women's business enterprises are used to the fullest extent practicable.
- b) Make information on forthcoming opportunities available and arrange time frames for purchases and contracts to encourage and facilitate participation by small businesses, minority-owned firms, and women's business enterprises.
- c) Consider in the contract process whether firms competing for larger contracts intend to subcontract with small businesses, minority-owned firms, and women's business enterprises.
- d) Encourage contracting with consortiums of small businesses, minority-owned firms and women's business enterprises when a contract is too large for one of these firms to handle individually.

- e) Use the services and assistance, as appropriate, of such organizations as the Small Business Development Agency in the solicitation and utilization of small business, minority-owned firms and women's business enterprises.

14. Prohibition on Text Messaging and Using Electronic Equipment Supplied by the Government while Driving. Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, was signed by President Barack Obama on October 1. This Executive Order introduces a Federal Government-wide prohibition on the use of text messaging while driving on official business or while using Government-supplied equipment. Additional guidance enforcing the ban will be issued at a later date. In the meantime, please adopt and enforce policies that immediately ban text messaging while driving company-owned or –rented vehicles, government-owned or leased vehicles, or while driving privately owned vehicles when on official government business or when performing any work for or on behalf of the government.

15. Trafficking in Persons. This term of award is pursuant to paragraph (g) of Section 106 of the Trafficking Victims Protections Act of 2000, as amended (22 USC 7104).

- a) Provisions applicable to a recipient that is a private entity.

1. You as the Recipient, your employees, Subrecipients under this award, and Subrecipients' employees may not-
 - i. Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
 - ii. Procure a commercial sex act during the period of time that the award is in effect; or
 - iii. Use forced labor in the performance of the award or subawards under the award.
2. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a Subrecipient that is a private entity-
 - i. Is determined to have violated a prohibition in paragraph a.1 of this award term; or
 - ii. Has an employee who is determined by the agency official authorized to terminate the award to have violated a

prohibition in paragraph a.1 of this award term through conduct that is either:

- a. Associated with performance under this award; or
- b. Imputed to you or the Subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (NonProcurement)," as implemented by our agency at 2 CFR part 1400.

b) Provision applicable to a recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a Subrecipient that is a private entity-

- 1. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or
- 2. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either:
 - i. Associated with performance under this award; or
 - ii. Imputed to the Subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government-wide Debarment and Suspension (NonProcurement)," as implemented by our agency at 2 CFR part 1400.

c) Provisions applicable to any recipient.

- 1. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
- 2. Our right to terminate unilaterally that is described in paragraph a.2 or b of this award term:
 - i. Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 USC 7104(g)), and

ii. s in addition to all other remedies for noncompliance that are available to us under this award.

3. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.

d) Definitions. For purposes of this award term:

1. "Employee" means either:
 - i. An individual employed by you or a Subrecipient who is engaged in the performance of the project or program under this awards; or
 - ii. Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
2. "Forced labor" means labor obtained by any of the following methods: The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
3. "Private entity" means:
 - i. Any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25; and
 - ii. Includes:
 - a. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
 - b. A for-profit organization.
4. "Severe forms of trafficking in persons," "commercial sex act," and "coercion" have the meanings given at section 103 of the TVPA, as amended (22 USC 7102).

16. Recipient Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights.

- a. This award and employees working on this financial assistance agreement will be subject to the whistleblower rights and remedies in the pilot program on Award Recipient employee whistleblower protections established at 41 U.S.C. 4712 by section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239).
- b. The Award Recipient shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C. 4712.
- c. The Award Recipient shall insert the substance of this clause, including this paragraph (c), in all subawards or subcontracts over the simplified acquisition threshold, 42 CFR § 52.203-17 (as referenced in 42 CFR § 3.908-9).

Additional Department Requirements

1. Provide the Commission with copies of all contracts entered into in connection with the project.
2. Ensure that no member, officer, or employee of the Maine Historic Preservation Commission, including Commission members and staff, will benefit financially from the project, except that such persons may provide technical, consultative, or oversight assistance in a voluntary capacity.

SCOPE OF WORK

The Provider agrees to conduct the project in accordance with its **HPF Grant Application**.

TIMETABLE

BEGINNING DATE	date of signed contract
FIRST INTERIM PROGRESS REPORT	10/15/2016
SECOND INTERIM PROGRESS REPORT	1/15/2017
THIRD INTERIM PROGRESS REPORT	4/15/2017
FOURTH INTERIM PROGRESS REPORT (If needed)	7/15/2017
FINAL PROJECT REPORT & FINAL BILLING	<u>9/30/2017</u>

This interim reporting schedule can be changed only by prior written approval by the Commission. Interim reporting forms will be provided to grant recipients for their use.

RIDER B
METHOD OF PAYMENT AND OTHER PROVISIONS

1. **AGREEMENT AMOUNT** \$ _____

2. **INVOICES AND PAYMENTS** The Department will pay the Provider as follows:

On a reimbursement basis up to the contract amount with documentation of allowable expenditures made and sufficient Provider match amount per reimbursement request.

Payments are subject to the Provider's compliance with all items set forth in this Agreement and subject to the availability of funds. The Department will process approved payments within 30 days.

3. **BENEFITS AND DEDUCTIONS** If the Provider is an individual, the Provider understands and agrees that he/she is an independent contractor for whom no Federal or State Income Tax will be deducted by the Department, and for whom no retirement benefits, survivor benefit insurance, group life insurance, vacation and sick leave, and similar benefits available to State employees will accrue. The Provider further understands that annual information returns, as required by the Internal Revenue Code or State of Maine Income Tax Law, will be filed by the State Controller with the Internal Revenue Service and the State of Maine Bureau of Revenue Services, copies of which will be furnished to the Provider for his/her Income Tax records.

4. **INDEPENDENT CAPACITY** In the performance of this Agreement, the parties hereto agree that the Provider, and any agents and employees of the Provider shall act in the capacity of an independent contractor and not as officers or employees or agents of the State.

5. **DEPARTMENT'S REPRESENTATIVE** The Agreement Administrator shall be the Department's representative during the period of this Agreement. He/she has authority to curtail services if necessary to ensure proper execution. He/she shall certify to the Department when payments under the Agreement are due and the amounts to be paid. He/she shall make decisions on all claims of the Provider, subject to the approval of the Commissioner of the Department.

6. **AGREEMENT ADMINISTRATOR** All progress reports, correspondence and related submissions from the Provider shall be submitted to:

Name: Kirk F. Mohny
 Title: Director
 Address: 65 State House Station, Augusta, ME, 04333-0065

who is designated as the Agreement Administrator on behalf of the Department for this Agreement, except where specified otherwise in this Agreement.

7. **CHANGES IN THE WORK** The Department may order changes in the work, the Agreement Amount being adjusted accordingly. Any monetary adjustment or any substantive change in the work shall be in the form of an amendment, signed by both parties and approved by the State Purchases Review Committee. Said amendment must be effective prior to execution of the work.
8. **SUB-AGREEMENTS** Unless provided for in this Agreement, no arrangement shall be made by the Provider with any other party for furnishing any of the services herein contracted for without the consent and approval of the Agreement Administrator. Any sub-agreement hereunder entered into subsequent to the execution of this Agreement must be annotated "approved" by the Agreement Administrator before it is reimbursable hereunder. This provision will not be taken as requiring the approval of contracts of employment between the Provider and its employees assigned for services thereunder.
9. **SUBLETTING, ASSIGNMENT OR TRANSFER** The Provider shall not sublet, sell, transfer, assign or otherwise dispose of this Agreement or any portion thereof, or of its right, title or interest therein, without written request to and written consent of the Agreement Administrator. No subcontracts or transfer of agreement shall in any case release the Provider of its liability under this Agreement.
10. **EQUAL EMPLOYMENT OPPORTUNITY** During the performance of this Agreement, the Provider agrees as follows:
- a. The Provider shall not discriminate against any employee or applicant for employment relating to this Agreement because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification.

The Provider shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation.

Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Provider agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

b. The Provider shall, in all solicitations or advertising for employees placed by or on behalf of the Provider relating to this Agreement, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

c. The Provider shall send to each labor union or representative of the workers with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Agreement a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Provider's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

d. The Provider shall inform the contracting Department's Equal Employment Opportunity Coordinator of any discrimination complaints brought to an external regulatory body (Maine Human Rights Commission, EEOC, Office of Civil Rights) against their agency by any individual as well as any lawsuit regarding alleged discriminatory practice.

e. The Provider shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.

f. Contractors and subcontractors with contracts in excess of \$50,000 shall also pursue in good faith affirmative action programs.

g. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

11. **EMPLOYMENT AND PERSONNEL** The Provider shall not engage any person in the employ of any State Department or Agency in a position that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. The Contractor shall not engage on a full-time, part-time or other basis during the period of this Agreement, any other personnel who are or have been at any time during the period of this Agreement in the employ of any State Department or Agency, except regularly retired employees, without the written consent of the State Purchases Review Committee. Further, the Provider shall not engage on this project on a full-time, part-time or other basis during the period of this Agreement any retired employee of the Department who has not been retired for at least one year, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

12. **STATE EMPLOYEES NOT TO BENEFIT** No individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly that would constitute a violation of 5 MRSA § 18 or 17 MRSA § 3104. No other individual employed by the State at the time this Agreement is executed or any time thereafter shall be admitted to any share or part of this Agreement or to any benefit that might arise therefrom directly or indirectly due to his employment by or financial interest in the Provider or any affiliate of the Provider, without the written consent of the State Purchases Review Committee. The Provider shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Agreement so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

13. **WARRANTY** The Provider warrants that it has not employed or contracted with any company or person, other than for assistance with the normal study and preparation of a proposal, to solicit or secure this Agreement and that it has not paid, or agreed to pay, any company or person, other than a bona fide

employee working solely for the Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon, or resulting from the award for making this Agreement. For breach or violation of this warranty, the Department shall have the right to annul this Agreement without liability or, in its discretion to otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

14. **ACCESS TO RECORDS** As a condition of accepting a contract for services under this section, a contractor must agree to treat all records, other than proprietary information, relating to personal services work performed under the contract as public records under the freedom of access laws to the same extent as if the work were performed directly by the department or agency. For the purposes of this subsection, "proprietary information" means information that is a trade secret or commercial or financial information, the disclosure of which would impair the competitive position of the contractor and would make available information not otherwise publicly available. Information relating to wages and benefits of the employees performing the personal services work under the contract and information concerning employee and contract oversight and accountability procedures and systems are not proprietary information. The Provider shall maintain all books, documents, payrolls, papers, accounting records and other evidence pertaining to this Agreement and make such materials available at its offices at all reasonable times during the period of this Agreement and for such subsequent period as specified under Maine Uniform Accounting and Auditing Practices for Community Agencies (MAAP) rules. The Provider shall allow inspection of pertinent documents by the Department or any authorized representative of the State of Maine or Federal Government, and shall furnish copies thereof, if requested. This subsection applies to contracts, contract extensions and contract amendments executed on or after October 1, 2009.

15. **TERMINATION** The performance of work under the Agreement may be terminated by the Department in whole, or in part, whenever for any reason the Agreement Administrator shall determine that such termination is in the best interest of the Department. Any such termination shall be effected by delivery to the Provider of a Notice of Termination specifying the extent to which performance of the work under the Agreement is terminated and the date on which such termination becomes effective. The Agreement shall be equitably adjusted to compensate for such termination, and modified accordingly.

16. **GOVERNMENTAL REQUIREMENTS** The Provider warrants and represents that it will comply with all governmental ordinances, laws and regulations.

17. **GOVERNING LAW** This Agreement shall be governed in all respects by the laws, statutes, and regulations of the United States of America and of the State of Maine. Any legal proceeding against the State regarding this Agreement shall be brought in State of Maine administrative or judicial forums. The Provider consents to personal jurisdiction in the State of Maine.
18. **STATE HELD HARMLESS** The Provider agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description (hereinafter in this paragraph referred to as "claims") resulting from or arising out of the performance of this Agreement by the Provider, its employees, agents, or subcontractors. Claims to which this indemnification applies include, but without limitation, the following: (i) claims suffered or incurred by any contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other legal entity (hereinafter in this paragraph referred to as "person") providing work, services, materials, equipment or supplies in connection with the performance of this Agreement; (ii) claims arising out of a violation or infringement of any proprietary right, copyright, trademark, right of privacy or other right arising out of publication, translation, development, reproduction, delivery, use, or disposition of any data, information or other matter furnished or used in connection with this Agreement; (iii) Claims arising out of a libelous or other unlawful matter used or developed in connection with this Agreement; (iv) claims suffered or incurred by any person who may be otherwise injured or damaged in the performance of this Agreement; and (v) all legal costs and other expenses of defense against any asserted claims to which this indemnification applies. This indemnification does not extend to a claim that results solely and directly from (i) the Department's negligence or unlawful act, or (ii) action by the Provider taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Department in accordance with this Agreement.
19. **NOTICE OF CLAIMS** The Provider shall give the Contract Administrator immediate notice in writing of any legal action or suit filed related in any way to the Agreement or which may affect the performance of duties under the Agreement, and prompt notice of any claim made against the Provider by any subcontractor which may result in litigation related in any way to the Agreement or which may affect the performance of duties under the Agreement.

20. **APPROVAL** This Agreement must have the approval of the State Controller and the State Purchases Review Committee before it can be considered a valid, enforceable document.

21. **LIABILITY INSURANCE** The Provider shall keep in force a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Agreement with adequate liability coverage to protect itself and the Department from suits. Providers insured through a “risk retention group” insurer prior to July 1, 1991 may continue under that arrangement. Prior to or upon execution of this Agreement, the Provider shall furnish the Department with written or photocopied verification of the existence of such liability insurance policy.

22. **NON-APPROPRIATION** Notwithstanding any other provision of this Agreement, if the State does not receive sufficient funds to fund this Agreement and other obligations of the State, if funds are de-appropriated, or if the State does not receive legal authority to expend funds from the Maine State Legislature or Maine courts, then the State is not obligated to make payment under this Agreement.

23. **SEVERABILITY** The invalidity or unenforceability of any particular provision or part thereof of this Agreement shall not affect the remainder of said provision or any other provisions, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision or part thereof had been omitted.

24. **INTEGRATION** All terms of this Agreement are to be interpreted in such a way as to be consistent at all times with the terms of Rider B (except for expressed exceptions to Rider B included in Rider C), followed in precedence by Rider A, and any remaining Riders in alphabetical order.

25. **FORCE MAJEURE** The Department may, at its discretion, excuse the performance of an obligation by a party under this Agreement in the event that performance of that obligation by that party is prevented by an act of God, act of war, riot, fire, explosion, flood or other catastrophe, sabotage, severe shortage of fuel, power or raw materials, change in law, court order, national defense requirement, or strike or labor dispute, provided that any such event and the delay caused thereby is beyond the control of, and could not reasonably be avoided by, that party. The Department may, at its discretion, extend the time period for performance of the obligation excused

under this section by the period of the excused delay together with a reasonable period to reinstate compliance with the terms of this Agreement.

26. **SET-OFF RIGHTS** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any monies due to the Provider under this Agreement up to any amounts due and owing to the State with regard to this Agreement, any other Agreement, any other Agreement with any State department or agency, including any Agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Controller.

27. **ENTIRE AGREEMENT** This document contains the entire Agreement of the parties, and neither party shall be bound by any statement or representation not contained herein. No waiver shall be deemed to have been made by any of the parties unless expressed in writing and signed by the waiving party. The parties expressly agree that they shall not assert in any action relating to the Agreement that any implied waiver occurred between the parties which is not expressed in writing. The failure of any party to insist in any one or more instances upon strict performance of any of the terms or provisions of the Agreement, or to exercise an option or election under the Agreement, shall not be construed as a waiver or relinquishment for the future of such terms, provisions, option or election, but the same shall continue in full force and effect, and no waiver by any party of any one or more of its rights or remedies under the Agreement shall be deemed to be a waiver of any prior or subsequent rights or remedy under the Agreement or at law.

RIDER D

The following completed document is attached to and made a part of this Agreement:

Provider's FY 2016 HPF Education, Planning, Survey and National Register Project Grant application.

RIDER G
IDENTIFICATION OF COUNTRY
IN WHICH CONTRACTED WORK WILL BE PERFORMED

Please identify the country in which the services purchased through this contract will be performed:



United States. Please identify state: Maine



Other. Please identify country: _____

Notification of Changes to the Information

The Provider agrees to notify the Division of Purchases of any changes to the information provided above.